

Appl. No. 10/634,071
Amdt. dated February 11, 2008
Reply to Office Action of September 10, 2007

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REMARKS

Claims 1, 5-7, 9, 13, 15, 16, 18-26 and 86 are pending in the instant application. In the Office Action mailed September 10, 2007, the Examiner rejects claims 1, 3-7, 9-10, 13, 15-16, 18-26, 50-51, 53-55, 57-58, 61, 63-68 and 84-85. Based on the remarks made herein, Applicants respectfully request that the rejections be withdrawn and that the application be passed to allowance.

Claim 1 is amended herein. The amendment is supported by the Specification as filed including the portion of the Specification at page 11, lines 10-18. Claim 86 is newly presented herein. Claim 86 is supported by the Specification as filed including the portion of the Specification at page 18, lines 4-10. No new matter is introduced by either the amendment made to claim 1 or the introduction of newly presented claim 86.

1. Paragraphs 2 – 4 of the Office Action Mailed September 10, 2007: Rejection of Claim 4 Under 35 U.S.C. §112, Second Paragraph

In the Office Action mailed September 10, 2007, the Examiner rejects claim 4 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner believes claim 4 is incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. The Examiner suggests including the aspect of the cord being attached to the packaging.

Applicants appreciate the suggested amendment to claim 4. Rather than amending claim 4, Applicants have introduced newly presented claim 86 that includes the aspects of previously presented claim 1 and original claim 4. Therefore, Applicants cancel claim 4 herein. Applicants respectfully request that the Examiner withdraw the rejection of claim 4 and consider newly presented claim 86.

2. Paragraph 6 of the Office Action Mailed September 10, 2007: Rejection of Claims 1, 3, 5-7, 9-10, 18-19, 21 and 23 Under 35 U.S.C. §102(b)

In the Office Action mailed September 10, 2007, the Examiner rejects claims 1, 3, 5-7, 9-10, 18-19, 21 and 23 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Publication No. 2002/0014273 issued to Masterson (hereinafter "the Masterson publication"). Applicants respectfully traverse the rejection.

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With respect to claims 1, 3, 5-7, 9-10, 18-19, 21, and 23, the Examiner believes the Masterson publication discloses a poufable product capable of being converted into a pouf product comprising at least one flat ply of flexible sheet material having at least one side edge, at least one cord, wherein the cord engages and is interlaced with at least one of the flat ply of the flexible sheet material such that the flexible sheet material is capable of bunching on or about the cord (paragraphs [0001], [0017], [0036] – [0040] and Figs. 7-10).

The Examiner believes the Masterson publication also discloses a first area and a second area wherein the first area provides at least one different characteristic or property than the second area (paragraph [0017]). Additionally, the Examiner believes the Masterson publication discloses the flat ply of flexible sheet material has a tubular structure (Figs. 7-8) and the flat ply of flexible sheet material comprises at least two layers, or plies, wherein one has a different characteristic or property than the other layers of flexible sheet materials (paragraph [0017]). Further, the Examiner believes the Masterson publication discloses that the cord is interlaced with the flat ply of flexible sheet material adjacent at least a portion of the side edge of the flat ply of flexible sheet material (paragraphs [0036] – [0040] and Figs. 6-10), a cord fastener (paragraph [0040]), a handle (paragraph [0040]) and that the flat ply is breathable (paragraphs [0001], [0036] – [0040]).

In order to anticipate, a reference must disclose each and every element of the claimed invention. Independent claim 1 is amended herein to include the feature of the flexible sheet material including a lathering area and an exfoliation area. The Masterson publication does not disclose a poufable product including a flat ply of flexible sheet material having at least one side edge and a cord, where the cord is interlaced with the flat ply of flexible sheet material and the flexible sheet material includes a lathering area and an exfoliation area. Therefore, the Masterson publication does not disclose each and every element of the invention as claimed. Claims 3 and 10 are canceled herein. Claims 5-7, 9, 18, 19, 21 and 23 are patentable over the Masterson publication at least for depending from independent claim 1. For at least these reasons, Applicants respectfully submit that claims 1, 5-7, 9, 18, 19, 21 and 23 are patentable over the Masterson publication and that the rejection should be withdrawn.

3. Paragraph 7 of the Office Action Mailed September 10, 2007: Rejection of Claims 50-51, 54-55, 57-58, 61, 65, and 67 Under 35 U.S.C. §102(b)

In the Office Action mailed September 10, 2007, the Examiner rejects claims 50-51, 54-55, 57-58, 61, 65 and 67 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,683,921

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issued to Brooks et al. (hereinafter "the Brooks patent"). Applicants have canceled claims 50-51, 54-55, 57-58, 61, 65 and 67 herein and respectfully request that the rejection be withdrawn.

4. Paragraphs 8 & 9 of the Office Action Mailed September 10, 2007: Rejection of Claims 13 and 15-16 Under 35 U.S.C. §103(a)

In the Office Action mailed September 10, 2007, the Examiner rejects claims 13 and 15-16 under 35 U.S.C. §103(a) as being unpatentable over the Masterson publication. Applicants respectfully traverse the rejection.

With respect to claims 13 and 15-16, the Examiner acknowledges the Masterson publication does not disclose Applicants' recited ranges for filament size, length of ply and cord width. The Examiner believes, however, the Masterson publication does disclose that the maker would choose the length of material to be used, determine the desired width and decide on the gauge of stitching to be used down the center of the material and the formula selected determines the size, shape, density, and look of the finished puff (paragraph [0010]). Thus, the Examiner believes one of ordinary skill in the art would have recognized that the amount of water [sic?] would be readily determined through routine experimentation depending on the desired end results absent some showing of unexpected results. Further, the Examiner believes it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided Applicants' recited ranges in order to provide a pouf that is more visually appealing to the consumer.

As discussed, claim 1 is amended herein to include the aspect of a lathering area and an exfoliation area, not disclosed or suggested by the Masterson publication. Dependent claims 13, 15 and 16 depend from independent claim 1 and for at least this reason, these claims are patentable over the Masterson publication. Applicants respectfully request that the rejection be withdrawn.

5. Paragraph 10 of the Office Action Mailed September 10, 2007: Rejection of Claim 20 Under 35 U.S.C. §103(a)

In the Office Action mailed September 10, 2007, the Examiner rejects claim 20 under 35 U.S.C. §103(a) as being unpatentable over the Masterson publication in view of U.S. Patent Publication No. 2003/0014824 issued to Farmer (hereinafter "the Farmer publication"). Applicants respectfully traverse the rejection.

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With respect to claim 20, the Examiner acknowledges the Masterson publication fails to disclose the flat ply of flexible sheet material forming a mitt structure. The Examiner believes the Farmer publication discloses a flat ply of flexible sheet material that forms a mitt structure (paragraphs [0029] – [0031] and Figs. 4-6) for the purpose of providing a bathing tool which enables efficient cleansing and exfoliating (paragraph [0007]). The Examiner believes it would have been obvious to one of ordinary skill in the art at the time Applicants' invention was made to have provided a flat ply of flexible sheet material to form a mitt structure in the product of the Masterson publication in order to provide a bathing tool which enables efficient cleansing and exfoliating.

As discussed, claim 1 is amended herein to include the aspect of a lathering area and an exfoliation area, not disclosed or suggested by the Masterson publication. Dependent claim 20 depends from independent claim 1 and for at least this reason, this claim is patentable over the Masterson publication, alone or in combination with the Farmer publication. Further, the Examiner does not identify the motivation or suggestion that would cause one of skill in the art to combine the teachings of the Masterson publication and the Farmer publication. Applicants respectfully request that the rejection be withdrawn.

6. Paragraph 11 of the Office Action Mailed September 10, 2007: Rejection of Claim 22 Under 35 U.S.C. §103(a)

In the Office Action mailed September 10, 2007, the Examiner rejects claim 22 under 35 U.S.C. §103(a) as being unpatentable over the Masterson publication in view of U.S. Patent No. 6,007,750 issued to Firgo et al (hereinafter "the Firgo patent"). Applicants respectfully traverse the rejection.

With respect to claim 22, the Examiner acknowledges the Masterson publication fails to disclose a portion of the ply being biodegradable. The Examiner believes the Firgo patent discloses a biodegradable ply (column 3, lines 9-28) in a bathing sponge (column 3, lines 27-28) for the purpose of providing an eco-friendly bathing product. The Examiner believes it would have been obvious to one of ordinary skill in the art at the time Applicants' invention was made to have provided a biodegradable ply in the product of the Masterson publication in order to provide an eco-friendly bathing product as taught or suggested by the Firgo patent.

As discussed, claim 1 is amended herein to include the aspect of a lathering area and an exfoliation area, not disclosed or suggested by the Masterson publication. Dependent claim 22

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depends from independent claim 1 and for at least this reason, this claim is patentable over the Masterson publication, alone or in combination with the Firgo patent. Further, the Examiner does not identify the motivation or suggestion that would cause one of skill in the art to combine the teachings of the Masterson publication and the Firgo patent. Applicants respectfully request that the rejection be withdrawn.

7. Paragraph 12 of the Office Action Mailed September 10, 2007: Rejection of Claim 24 Under 35 U.S.C. §103(a)

In the Office Action mailed September 10, 2007, the Examiner rejects claim 24 under 35 U.S.C. §103(a) as being unpatentable over the Masterson publication in view of the Farmer publication, as applied to claim 20 above, and further in view of U.S. Patent No. 6,485,822 issued to Osiecki et al. (hereinafter "the Osiecki patent"). Applicants respectfully traverse the rejection.

With respect to claim 24, the Examiner believes the Farmer publication discloses a mitt. The Examiner acknowledges the Masterson publication and the Farmer publication fail to disclose that the flat ply is impermeable. The Examiner believes the Osiecki patent discloses a flat ply which is impermeable (column 5, lines 13-34) in a cleaning sponge for the purpose of preventing water from flowing between layers (column 5, lines 13-34). Therefore, the Examiner believes it would have been obvious to one of ordinary skill in the art at the time Applicants' invention was made to have provided an impermeable flat ply in the product of the Masterson publication in order to prevent water from flowing between layers.

As discussed, claim 1 is amended herein to include the aspect of a lathering area and an exfoliation area, not disclosed or suggested by the Masterson publication. Dependent claim 24 depends from independent claim 1 and for at least this reason, this claim is patentable over the Masterson publication, alone or in combination with the Farmer publication or the Osiecki patent. Further, the Examiner does not identify the motivation or suggestion that would cause one of skill in the art to combine the teachings of the Masterson publication, the Farmer publication and the Osiecki patent. Applicants respectfully request that the rejection be withdrawn.

8. Paragraph 13 of the Office Action Mailed September 10, 2007: Rejection of Claims 25-26 Under 35 U.S.C. §103(a)

In the Office Action mailed September 10, 2007, the Examiner rejects claims 25-26 under 35 U.S.C. §103(a) as being unpatentable over the Masterson publication in view of U.S. Patent No.

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3,683,921 issued to Brooks et al. (hereinafter "the Brooks patent"). Applicants respectfully traverse the rejection.

With respect to claims 25-26, the Examiner acknowledges the Masterson publication fails to disclose the flat ply or cord including a shrinkable material. The Examiner believes the Brooks patent discloses the use of shrinkable materials in sponges (column 1, lines 1-11, column 6, lines 34-64, column 7, lines 8-21) in order to control puckering and rippling. Therefore, the Examiner believes it would have been obvious to one of ordinary skill in the art at the time Applicants' invention was made to have provided a flat ply or cord including a shrinkable material in the product of the Masterson publication in order to provide controlled puckering and rippling as taught or suggested by the Brooks patent.

As discussed, claim 1 is amended herein to include the aspect of a lathering area and an exfoliation area, not disclosed or suggested by the Masterson publication. Dependent claims 25-26 depend from independent claim 1 and for at least this reason, the claims are patentable over the Masterson publication, alone or in combination with the Brooks patent. Further, the Examiner does not identify the motivation or suggestion that would cause one of skill in the art to combine the teachings of the Masterson publication and the Brooks patent. Applicants respectfully request that the rejection be withdrawn.

9. Paragraph 14 of the Office Action Mailed September 10, 2007: Rejection of Claims 53 and 63 Under 35 U.S.C. §103(a)

In the Office Action mailed September 10, 2007, the Examiner rejects claims 53 and 63 under 35 U.S.C. §103(a) as being unpatentable over the Brooks patent in view of the Masterson publication. Claims 53 and 63 are canceled herein and therefore, Applicants respectfully submit that the rejection has been obviated and can be withdrawn.

10. Paragraph 15 of the Office Action Mailed September 10, 2007: Rejection of Claim 64 Under 35 U.S.C. §103(a)

In the Office Action mailed September 10, 2007, the Examiner rejects claim 64 under 35 U.S.C. §103(a) as being unpatentable over the Brooks patent in view of the Farmer publication. Claim 64 is canceled herein and therefore, Applicants respectfully submit that the rejection has been obviated and can be withdrawn.

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**11. Paragraph 16 of the Office Action Mailed September 10, 2007: Rejection of Claim 66
Under 35 U.S.C. §103(a)**

In the Office Action mailed September 10, 2007, the Examiner rejects claim 66 under 35 U.S.C. §103(a) as being unpatentable over the Brooks patent in view of the Firgo patent. Claim 66 is canceled herein and therefore, Applicants respectfully submit that the rejection has been obviated and can be withdrawn.

**12. Paragraph 17 of the Office Action Mailed September 10, 2007: Rejection of Claim 68
Under 35 U.S.C. §103(a)**

In the Office Action mailed September 10, 2007, the Examiner rejects claim 68 under 35 U.S.C. §103(a) as being unpatentable over the Brooks patent in view of the Farmer publication, as applied to claim 64 above, and further in view of the Osiecki patent. Claim 68 is canceled herein and therefore, Applicants respectfully submit that the rejection has been obviated and can be withdrawn.

**13. Paragraph 14 of the Office Action Mailed September 10, 2007: Rejection of Claim 84
Under 35 U.S.C. §103(a)**

In the Office Action mailed September 10, 2007, the Examiner rejects claim 84 under 35 U.S.C. §103(a) as being unpatentable over either U.S. Patent No. 5,813,523 issued to Gnadt et al. (hereinafter "the Gnadt patent") or U.S. Patent No. 3,948,390 issued to Ferreri (hereinafter "the Ferreri patent") in view of the Masterson publication. Claim 84 is canceled herein and therefore, Applicants respectfully submit that the rejection has been obviated and can be withdrawn.

**14. Paragraph 14 of the Office Action Mailed September 10, 2007: Rejection of Claim 85
Under 35 U.S.C. §103(a)**

In the Office Action mailed September 10, 2007, the Examiner rejects claim 85 under 35 U.S.C. §103(a) as being unpatentable over either the Gnadt patent or the Ferreri patent in view of the Masterson publication. Claim 85 is canceled herein and therefore, Applicants respectfully submit that the rejection has been obviated and can be withdrawn.

In conclusion, and in view of the remarks set forth above, Applicants respectfully submit that the application and the claims are in condition for allowance and respectfully request favorable consideration and the timely allowance of pending claims 1, 5, 6-7, 9, 13, 15-16, 18-26 and 86. If

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any additional information is required, the Examiner is invited to contact the undersigned at (920) 721-2433.

The Commissioner is hereby authorized to charge any prosecutorial fees (or credit any overpayment) associated with this communication to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such extension is requested and should also be charged to our Deposit Account.

Respectfully submitted,

REBECCA L. DILNIK ET AL.

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CERTIFICATE OF TRANSMISSION

I, Mary L. Marchant, hereby certify that on February 11, 2008 this document is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300.

Mary L. Marchant
Mary L. Marchant